

1 **WO**

2
3
4
5
6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 Charles H Landwer,

10 Plaintiff,

11 v.

12 Royal Neighbors of America, et al.,

13 Defendants.
14

No. CV-24-03134-PHX-JAT

ORDER

15 Pending before the Court is Plaintiff Charles Landwer's "Application for Entry of
16 Default against Defendant Royal Neighbors of America," (Doc. 21). Plaintiff cites Doc. 19
17 as evidence that Defendant Royal Neighbors of America was properly served. (Doc. 21 at
18 2, 5). However, as explained by the Court in a prior Order, (Doc. 20), Plaintiff's proof of
19 service at Doc. 19 is insufficient:

20 After filing his motion for extension of time for service, Plaintiff filed a
21 notice of proof of service for Defendant Royal Neighbors of America ("Royal
22 Neighbors"). (Doc. 19). Because Royal Neighbors is domiciled in Illinois, (Doc. 1
23 at 3), it is a foreign insurer under state law¹ and service of process "shall be made
only by service of process upon the director."² Ariz. Rev. Stat. § 20-221(B)
(emphasis added). In this context, "director" means the Director of the Arizona
Department of Insurance and Financial Institutions ("ADIFI").

24
25 ¹ Royal Neighbors is listed in the Arizona system of the National Association of Insurance
26 Commissioners as having a domicile type of "foreign," in the state of Illinois. *Company*
Lookup, Nat'l Ass'n of Ins. Comm'rs, <https://sbs.naic.org/solar-external-lookup/lookup/company/summary/49209336?jurisdiction=AZ> (last visited March 25,
27 2025).

28 ² Because serving the Director of the Arizona Department of Insurance and Financial
Institutions is the only way to effectuate service upon Royal Neighbors under Arizona law,
the Court need not address Plaintiff's attempt to serve Royal Neighbors directly via
certified mail. (See Doc. 19 at 2-3).

1 Plaintiff claims that the summons and complaint “were provided” to the
 2 Director of the ADIFI on March 12, 2025. (Doc. 19 at 2). However, Plaintiff does
 3 not say *who* provided the summons and the complaint to the Director. Under Federal
 4 Rule of Civil Procedure 4(c)(2), a party to the lawsuit may not serve the summons
 and complaint. In other words, service of process is not complete if Plaintiff himself
 served the Director. Without proof that someone other than Plaintiff completed
 service, the Court does not find service completed at this time.

5 (Doc. 20 at 1-2 (footnotes in original)).

6 Three days after filing the pending motion, Plaintiff filed another, separate proof of
 7 service. (Doc. 22). There, Plaintiff claims the ADIFI was served. (Doc. 22 at 2). But, again,
 8 Plaintiff does not say *who* served the ADIFI, and Plaintiff attaches no additional proof of
 9 service.³ Plaintiff also explains that he sent copies of the pending motion to Royal
 10 Neighbors’ counsel and another lawyer, whose role in this case is unclear. These efforts
 11 are irrelevant because there is only one way to serve Royal Neighbors, as detailed above,
 12 and there is no proof that that has occurred. Because Plaintiff has failed to prove proper
 13 service under Federal Rule of Civil Procedure 4, the Clerk of the Court may not enter
 14 default under Federal Rule of Civil Procedure 55(a).

15 Accordingly,

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ³ Plaintiff claims his complaint was “served on the Defendant, Royal Neighbors of America
 28 on 12 March 2025, by having the Arizona Department of Insurance and Financial
 Institutions served.” (Doc. 22 at 2). It is unclear how this was accomplished, or if the
 Director of the ADIFI was served, as is required.

